

## **REMARKS**

### **I. INTRODUCTORY REMARKS**

The Applicant thanks the Examiner for the careful consideration of this application. The Office Action dated May 12, 2008 has been received and its contents carefully considered. Applicant amends independent claims 1 and 21 to incorporate claim 5. Accordingly, claim 5 is canceled. Claims 1-4 and 6-21 are currently pending in this application. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

### **II. CLAIM REJECTIONS UNDER 35 U.S.C. § 102(B)**

On page 2, the Office Action rejected claims 1, 2, 5, 6, and 8-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 964,432 to Kemmler. At the bottom of page 2, the Office Action rejected claims 1, 2, and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,009,558 to Savedra, Jr. Applicant respectfully traverses these rejections for the following reasons.

#### **A. CLAIM 1- KEMMLER**

Claims 1, 2, 5, 6, and 8-10 are rejected as being anticipated by Kemmler. Amended claim 1 recites "...at least a portion of inner walls of the at least two frame members form a gripping surface, which gripping surface is adapted to lie substantially parallel with side walls of an article to be lifted when in the second, closed,

configuration." The Office Action aligns the claimed "gripping surface" with the gripping means (10) of Kimmler. The Office Action provides that "the gripping surfaces (10) are capable of extending substantially parallel to the side walls of the article." However, Applicant respectfully disagrees. Kimmler does not disclose a gripping surface that "is adapted to lie substantially parallel with side walls of an article to be lifted when in the second, closed, configuration," as recited by amended claim 1 (emphasis added). The surface of the gripping means of Kimmler is "toothed or serrated" as is depicted in Figure 1 (See Kimmler, column 1, line 52). The majority of the toothed gripping means do not make contact with the article to be lifted- only the teeth of the gripping means make contact with the article to be lifted. Therefore, Kimmler does not disclose a "gripping surface" that "is adapted to lie substantially parallel with side walls of an article to be lifted when in the second, closed, configuration." Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing amendments and remarks.

**B. CLAIMS 2, 5, 6, AND 8-10- KEMMLER**

Claims 2, 5, 6, and 8-10 depend from independent claim 1 and are patentable for at least the same reasons as claim 1. Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing amendments and remarks.

**C. CLAIM 1- SAVEDRA, JR.**

Claims 1, 2, and 6 are rejected as being anticipated by Savedra, Jr. Amended claim 1 incorporates the substance of canceled claim 5. The Office Action indicates that

claim 5 is patentable over Savedra, Jr. Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing amendments and remarks.

**D. CLAIMS 2 AND 6- SAVEDRA, JR.**

Claims 2 and 6 depend from independent 1 and are patentable for at least the same reasons as claim 1. Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing amendments and remarks.

**III. CLAIM REJECTIONS UNDER 35 U.S.C. § 103(A)**

On page 3 of the Office Action, claims 1-12 and 14-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,840,556 to Catlett in view of Kemmler or Savedra, Jr. The Applicant respectfully traverses this rejection.

The Applicant agrees with the Examiner such that Catlett does not show "that its handle means (18, 28) are not shown as sloping downwardly with respect to a gripped article as is now claimed in claims 1 and 21." However, Applicant respectfully disagrees with the Examiner as to the rejection. Applicant submits that it would not be obvious to modify Catlett in view of either Kemmler or Savedra, Jr. to obtain the claimed invention. The cited prior art fails to disclose the surprising advantage that arises with handles that slope downward with respect to the article to be lifted as opposed to horizontal or upwardly sloping handles. The handles with downward slopes allow the device to more securely grip and lift the article. It allows the device to be much less liable to slippages because when a lifting force is applied to such downwardly sloping handles, the handles are lifted upwards, unlike horizontal or upwardly sloping handles which would pull

inwards upon lifting, thus destabilizing the article held by the devices. Since this surprising advantage is not taught in the cited prior art, a person of ordinary skill in the art would not be motivated to combine this feature with the other references. Claims 1 and 21 are therefore patentable over the cited prior art. Dependent claims 2-20 are patentable over the cited prior art for at least the same reasons as claim 1.

Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing amendments and remarks.

On page 4 of the Office Action, claim 13 is rejected as being obvious over Catlett, in view of either Kemmler or Savedra, Jr, and further in view of U.S. Patent No. 5,601, 324 to Purcell. The Applicant respectfully traverses this rejection. Claim 13 depends indirectly from claim 1, which, as shown above, is patentable over Catlett, Kemmler, and Savedra, Jr. Purcell does not remedy the deficiencies of these references. Therefore, no reasonable combination of either Kemmler and Savedra, Jr. with either Catlett or Purcell would render the claims as obvious. Reconsideration and withdrawal of the rejection is respectfully requested in view of the foregoing amendments and remarks.

### **CONCLUSION**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite

prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

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Respectfully submitted,

By 

Michael A. Sartori, Ph.D.

Registration No.: 41,289

Jeffri A. Kaminski

Registration No.: 42,709

Steven J. Schwarz

Registration No.: 47,070

Justine A. Gozzi

Registration No.: 60,513

VENABLE LLP

P.O. Box 34385

Washington, DC 20043-9998

(202) 344-4000

(202) 344-8300 (Fax)

Attorney/Agent For Applicant